

June 21, 2004

## QUOTE OF THE WEEK

*"Congressmen who willfully take actions during wartime that damage morale and undermine the military are saboteurs and should be arrested, exiled, or hanged." ---President Abraham Lincoln*

## TAX TIPS

### \*\*\*Sailing up the Creek\*\*\*

Imagine that you bought a boat more than eight years ago. At the time, you paid the sales tax on the boat to the boat broker. A few years later, you sold the boat. A few years after that, you received a notice from the Board of Equalization that you owe back taxes, penalties and interest payment for the boat you briefly owned nearly a decade ago. Such was the plight of a taxpayer who appeared before the Board last week, arguing that she had paid the sales tax at the time she bought it and should not have to pay again, much less pay penalties. I believed her, and I voted for her, but three of my colleagues did not and she will now be paying a large bill on a boat she no longer sails.

There are sad lessons from this case. First, keep all your receipts and tax records for a really long time. If you do not file a sales tax return, the statute of limitations is eight years. If she had had more records, I may have been able to convince one more of my colleagues to vote for her. Second, the majority of the Board is not friendly to taxpayers, not willing to give them the benefit of the doubt, and willing to separate you from your money. Their vote on this item is just one of many that go 3-2 against the taxpayer. Those of you who care about tax fairness should remember this the next time you have the opportunity to communicate with the State Controller or the Board Members because that each vote on the Board could swing many cases for taxpayers.

### \*\*\*Teaching the Tax Protestors\*\*\*

No one likes paying taxes, but some people take this distaste to the extreme and argue that they are not legally required to pay. An industry has actually been created to separate these people from their money in another way—they pay a fee to learn how to avoid paying taxes and are told that tax protestors have been upheld in court. Of course, most tax protestors usually end up paying large penalties and can go to jail. A law professor has taken the time to list the usual tax protest arguments and give the legal rebuttal. I encourage you to visit his site to review the assertions made by tax protestors and read his concise, authoritative rebuttals: <http://evans-legal.com/dan/tpfaq.html#purpose>

### **\*\*\* Election Year Caution to Charities \*\*\***

Charities are prohibited from engaging in political campaign activities, which is different from engaging in public policy advocacy. Some that have forgotten this rule have lost their tax-exempt status. Details on compliance may be found on the IRS Web site: <http://www.irs.gov/newsroom/article/0,,id=122887,00.html>. This prohibition does not restrict a member of a charity from expressing his or her own personal views, so long as the time and place make it clear that only personal views are being expressed. If you believe a California non-profit entity has violated this rule, you may complain to the Franchise Tax Board in writing at P.O. Box 942840, Mail Stop F-200, Sacramento, CA 94240. You may also call the IRS's informant line at 1-800-829-0433.

## **AROUND THE STATE**

### **\*\*\*Mississippi Bests California\*\*\***

Last week the Wall Street Journal ran an article describing Mississippi's move out of the bottom slot for having the worst business climate in the U.S. The article attributed this jump to the state's embrace of tort reform. The bad news for us is that for the past several years, business magazines have listed California and Mississippi as having the worst, or second-worst, business climates in the nation. Well, it appears because of Mississippi's reforms, California now has a virtual lock on being the very worst. Yes, things seem to be getting a little better for Californians as the economy improves. Nonetheless, all of us elected officials need to keep this ignominious distinction in the front of our minds and get to work.

### **\*\*\*Overheard\*\*\***

I never cease to be amazed by the number of Democrat policymakers who ignore the ranking of states like the one discussed above. They really do not believe that businesspeople make decisions based on public policy. They should all give ear to something Senator Dick Ackerman reported this week. He met with HP's CEO, Carly Fiorina, recently. She told him that she gives her corporate officers this direction about how they should determine business expansion opportunities or relocation decisions: anywhere but Germany, France or California. That is not a list that we should be on.

### **\*\*\*Lottery Low-Down\*\*\***

Californians were sold a bill of goods back in the mid-1980s. They were told that a state lottery dedicated to public education would help solve our schools' problems. The lottery has not accomplished that and school funding remains a fiscal football to this day. Here are some new stats about the state lottery and the money it generates to schools:

Over the past 18 years, the California Lottery has dispersed \$40.03 billion. The money has been distributed between three different categories: 49.8% to lottery winners, 37.2% to education, and 13% for operating costs.

Of the 37.2% set aside for education: 77% goes to salaries and benefits for teachers, classroom aides, nurses, school psychologists and other educators; 18% for textbooks, computers, software, library books and other instructional materials; and 5% for miscellaneous programs and services.

The sales from the California State Lottery over the past four years has been relatively flat, averaging an annual return between \$2.8 to \$2.9 billion a year. In 2003, total gross sales were \$2.78 billion, a decrease of 4.7% from 2002.

California ranked 28th out-of 38 states with sales at \$78.40 per capita. This compares to Florida, which ranked 12th with sales at \$168.51 per capita, and Texas that ranked fifteenth with sale at \$141.53 per capita.

## ISSUE FOCUS

### \*\*\*Algebra Challenge III\*\*\*

Loyal Leonard Letter readers know of my disappointment in the thousands of waivers granted to students who have not learned enough basic algebra to successfully pass that portion of the High School Exit exam. To show how easy the questions are, I have been offering some sample problems from the exit exam.

1. Divide a number by 5 and add 4 to the result. The answer is 9. Which of the following equations matches these statements?

- A.  $4 = 9 + n/5$
- B.  $n/5 + 4 = 9$
- C.  $5/n = 4$
- D.  $(n+4)/5 = 9$

2. If  $n = 2$  and  $x = 1/2$ , then  $n(4-x) =$

- A. 1
- B. 3
- C. 7
- D. 10

3. If  $h = 3$  and  $k = 4$ , then  $(hk + 4)/2 - 2 =$

- A. 6
- B. 7

- C. 8
- D. 10

Answers: 1-B, 2-C, 3-A

## **BOE AND LEGISLATIVE DATES**

**June 24, 2004** --- Deadline for submission of legislative measures to November ballot.

**June 30 & July 1, 2004** --- BOE meets in Sacramento

**July 2, 2004** --- Legislature's summer recess begins, providing a budget bill has been enacted.

**July 31, 2004** --- Second quarterly Sales and Use Tax payment due

**August 2, 2004** --- Legislature reconvenes

**August 13, 2004** --- Last day for legislative fiscal committees to meet and report bills to the floor

**August 16-31, 2004** --- Floor sessions only; no committee may meet for any purpose

**August 24, 2004** --- BOE meets in Sacramento

## **NOTABLE DATES/ HISTORY**

**150 years ago** --- "By 1854, more than 300,000 people made their way to California following the discovery of gold. The female population in California was 8 percent of the total population. In the mining towns the proportion fell below 2 percent. The census of 1850 found that 73 percent of California's population was between the ages of 20 and 40, and 92 percent were male." [www.calgoldrush.com/resources/gr\\_timeline.html](http://www.calgoldrush.com/resources/gr_timeline.html)

**June 21, 1788** --- U.S. Constitution went into effect as New Hampshire became ninth state to ratify it

**June 22, 1807** --- British board USS Chesapeake, a provocation leading to War of 1812

**June 22, 1870** --- Congress created the Department of Justice

**June 22, 1944** --- FDR signed "GI Bill of Rights" (Servicemen's Readjustment Act)

**June 23, 1969** --- Outgoing U.S. Supreme Court Chief Justice Earl Warren swore in his successor, Warren Burger

**June 24, 1633** --- Astronomer Galileo was released during the Inquisition

**June 25, 1788** --- Virginia became tenth state to ratify U.S. constitution

**June 25, 1950** --- Korean conflict began as North Korea invaded South Korea

**June 26, 1945** --- UN Charter signed by 50 nations in San Francisco

**June 26, 1963** --- President Kennedy visited West Berlin and delivered his famous "Ich bin ein Berliner" ("I am a Berliner") speech

**June 27, 1867** --- Bank of California opened its doors

## **GENERAL TAX INFORMATION**

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115  
TDD service for the hearing impaired  
TDD phones: 800-735-2929  
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

## **HOW TO CONTACT ME**

Bill Leonard  
Board of Equalization  
400 Capitol Mall, Suite 2340  
Sacramento, CA 95814  
Telephone: (916) 445-2181  
Fax: (916) 327-4003

Email: [bill.leonard@boe.ca.gov](mailto:bill.leonard@boe.ca.gov)